

**Remarks**

This amendment responds to the official action mailed November 1, 2006, and includes a petition for extension under 37 C.F.R. §1.136(a) and the required official fee.

The official action contains a statement that applicant has not filed a certified copy of one or the DE applications from which priority is claimed under 35 U.S.C. §119.

Applicant submits a copy of form PCT/IB/304, mailed 01 March 2004 by the International Bureau, which expressly acknowledges that certified copies of both DE priority applications 102 60 212.3 and 102 60 211.5 have been received. According to MPEP 201.14(b), subpart II., it is not necessary to file an additional certified copy of a priority application when one has already been filed in a parent or related application. It is only necessary to identify the application in which the certified copy was filed. Id. Attached Form PCT/IB/304 shows that certified copies of both priority applications were filed at the international bureau in related application PCT/EP2003/014099, which is the international phase of the present application. Thus, all formal requirements are met and the claim of Paris Convention priority has been perfected. Applicant requests confirmation of perfection of the claim of priority in the next official action.

The disclosure was subject to objection for lack of headings in the disclosure. Applicant submits a substitute specification wherein appropriate headings are inserted as required by the examiner. No new matter is presented.

Objection was made to the specification for lack of antecedent basis for the claimed subject matter. Claim 30 states that the rotation axis of the holder intersects the shower head near a centroid of the shower head. The specification states that the rotation axis intersects near a centroid of the housing of the shower head. The examiner requires correction and takes the position that the shower head and the shower head housing are synonymous in this context.

Applicant has revised the specification at paragraph [0014]. The specification and claim 30 are referring to the same aspect in that the centroid of the housing is the centroid of the shower head in the embodiments shown as examples, namely wherein the housing is the outer boundary of a regularly shaped shower head (a disk shape).

Whereas the subject matter claimed and the contents of the specification are consistent, it is unnecessary to decide whether all possible shower heads and all possible housings must be configured such that the centroid of the housing and the centroid of the shower head must always be the same point.

Objection was made to the correspondence of the specification and drawings in that reference number 16 in Fig. 4 was not found in the specification. A reference has been inserted at paragraph [0047] where number 16 is used to identify the short circumferential length of the engagement between one of the clamping jaws 14 and the shower head 8.

Applicant takes this opportunity to remove the reference to a numbered claim at paragraph [0006].

Objection was made to the drawings for lack of illustration of the various pivot axes and/or pivot angles defined in claims 3-7, 11, 16-17 and 30. Applicant proposes to show by dashed lines and to label the two pivot axes that are disclosed. There is a pivoting connection between arm 5 and console 3 at the protruding part 4 of console 3 (see paragraph [0045]), enabling the arm to be pivoted up or down over a range of 180°, which generally places the shower head 8 at a higher or lower elevation. There is a pivoting and the pivoting connection between the jaws 14 and the tips 12 of the tines 11 of the wall mounting arm 5 (see paragraph [0049]), which allows the shower head to be tilted for aiming. Whereas the pivot axes are shown, and the relationship of the arm 5 to the wall 1 and the shower head 8 to the arm 5 are illustrated, the drawings reasonably illustrate the pivot axes and pivot angles that are defined in the claims. Reconsideration and withdrawal of the objections are requested.

Claim 29 was rejected as lacking support by an enabling disclosure in the specification. The examiner points out in the rejection that there is no teaching as to how the tensioning component may grip the arm when the shower head is removed. Reconsideration is required. Claim 29 as filed stated that the tensioning component may be used for gripping the arm. However claim 29 did not state that the tensioning

component itself gripped the arm. Whereas the tensioning component is mounted on the arm, it obviously does not grip the arm when the shower head is removed.

Applicant has resolved this matter by changing the term "gripping" to "grasping" at claim 29 and paragraph [0035]. In the embodiments shown in Figs. 2 and 6, the tensioning component 15 has a cross member between the ends 12 of the tines 11, or extending laterally from one of the ends 12 to a knob. When the shower head is removed, a person can manipulate the arm by gripping it at the tensioning component. Applicant finds no basis in the disclosure to suggest that the tensioning component might itself grip the arm when the shower head is removed, but nevertheless has obviated the issue by using the term "grasp." Although "grip" and "grasp" may be synonyms, the implication of the term "grasp" is gripping by a person as opposed to by a mechanism. The grounds for the rejection under 35 USC 112 are overcome. No new matter is presented.

Claims 3-7, 11-13, 16-17, 20 and 27 were rejected as indefinite. The claims have been amended to more particularly and distinctly define the invention. Each of the grounds of rejection has been overcome as follows.

Re claim 15 and 26-27, claim 1 is amended to recite "a shower head" in the body of the claim (although "a support for a shower head" already appears in the preamble). This provides clear antecedent basis for "the shower head" throughout the claims.

Re claims 12-13, 18, 20, 23-24, 27 and 30-31, antecedent basis for the housing has been provided by appropriate amendments in claims 12, 18, 20, 23, 24, 27 and 31.

Re claims 21-24, 29, 31, antecedent basis for the jaws is provided by correcting the dependence of claims 21 and 22 as suggested.

Re claims 16-17 and 29, "may be" has been replaced by definite terminology.

The claims therefore have been amended to correct all noted matters of form and aspects considered indefinite. No new matter is presented. Applicant requests reconsideration and withdrawal of the rejections and objections under 35 USC §112.

The claims have been rejected under 35 USC 102 as anticipated or under 35 USC 103 as obvious, over one or another of Fornara (US 5,855,384), Gransow (US 6,442,775), Peterson (US 4,071,998). In each rejection, only one of these references is cited against the respective claims.

Applicant has amended the claims such that independent claim 1 contains the subject matter of original claims 1, 2, 4 and 6. Among the respective rejections, the rejection applied to claim 6 is a rejection under Section 103 over Fornara for obviousness. The examiner recognizes in the statement of the rejection that Fornara does not disclose an arm arrangement that defines parallel pivot axes for the coupling of the arm to the wall and for the coupling of the shower head holder to the arm. However the examiner. However further on in the statement of the same rejection over Fornara, the examiner states that the person of ordinary skill would have recognized that the pivot axis of the holder and the pivot axis of the wall mounting arm (a) are parallel to one another. (Emphasis added.)

The fact is that there is no structure in Fornara that causes the pivot axis of the shower head holder to be parallel to the pivot axis between the arm and the wall. Applicant's claims state as positive structural limitations that the arm is pivoted to the mounting fixture about a pivot axis parallel to the surface of the wall, which Fornara meets, and also that the shower head holder is disposed at an end of the arm that is opposite from the fixture and is pivoted to the arm about an axis that is parallel to the pivot axis between the arm and the wall. Fornara does not disclose or suggest this particular structure.

In Fornara, as in certain of the other references, there are three or more axes of freedom, permitting the shower head to be aimed in various directions. However applicant has discovered that a mounting for a hand shower on a pivoting arm is improved if the hand shower has a pivot axis that remains parallel to the axis around which the arm can be pivoted to raise and lower the elevation of the shower head. Applicant does not seek to provide a universal joint but instead provides an efficiently

useful structure by which the detachable shower head can be located and oriented within certain limits that result from the structure.

In the statement of the rejection, it is possible that the examiner was pointing out that the person of ordinary skill would recognize that in certain of the depictions in Fornara's line drawings that the pivot axis of the holder is shown to be oriented parallel to the pivot axis of the arm (Fornara's Fig. 1, for example). This depiction in Fornara does not meet or suggest applicant's invention claimed as a whole. Claim 1 as amended states that the holder for the shower head is pivoted to the arm on an axis parallel to the arm/wall pivot axis. In Fornara, however, the holder is pivoted to the sliding half-element 47, and the sliding half-element is pivotable around the longitudinal axis of the arm (in addition to being slidable as opposed to being placed at an end of the arm opposite from the wall mounting fixture).

Fornara has an arm that can pivot around a horizontal axis with the wall, which if other aspects remain the same, adjusts the height of the shower head and its distance from the wall. The distance from the wall to some extent the height are independently adjustable by displacement of the sliding half element along the arm. Rotation of the sliding half element around the longitudinal axis of the arm offsets the shower head from a center axis. The side of the slider opposite from the half element can be adjusted to orient slot 50 for the shower head handle more or less vertically. The shower head handle can be rotate within slot 50. These plural concatenated degrees of freedom clearly teach away from constraining the shower head holder in the manner claimed. There is no incentive shown that might lead a person of ordinary skill to restructure Fornara to provide a shower head holder fixed at the free end of an arm that is pivoted to a wall fixture at the other end, and wherein both pivoting axes with the arm are parallel (arm-to-fixture and arm-to-holder). The prior art does not meet or suggest the invention claimed as a whole.

Fornara discloses a support for attachment to the wall, an arm pivotable on a first axis with the support, parallel to the wall, and a holder for a shower head, pivotable on a second axis. But the second axis is not a pivot axis with the arm parallel to the first

axis. It may be possible to adjust Fornara's slider so that one of the multiple pivot axes involving the shower head is parallel to the first axis. But it is likewise possible to adjust the slider so that the shower head pivot axis is perpendicular to the first axis. This is because the shower head holder is not pivoted to the arm as particularly and distinctly claimed by applicant. Insofar as Fornara has an element that is pivoted to the arm, that element is half element 47. The pivoting connection between half element 47 and the first axis of the arm to the wall mounting fixture, is always perpendicular to the first axis of the arm to the wall mounting fixture. The half element 47 pivots on the longitudinal axis of the arm.

Thus, Fornara does not meet the invention defined in claim 1, and there is no showing of any incentive or objective motivation for attempting to modify Fornara to more nearly resemble applicant's invention. The differences between the invention and the prior art are such that the subject matter claimed as a whole is not shown to have been obvious.

All the pending claims depend directly or indirectly from independent claim 1, and are allowable together with claim 1, at least on grounds of dependence. Reconsideration and allowance of the claims are requested.

The references cited against other pending claims likewise fail to disclose or suggest the subject matter of claim 1 as amended. Instead, consistently with Fornara, the prior art that concerns detachable mountings for hand showers seeks to providing multiple progressive degrees of freedom as opposed to providing the specific structure disclosed and claimed by applicant, wherein the arm pivots specifically on a pivot axis parallel to the wall surface and the hand-shower holder is placed on the end of the arm and pivots specifically on an axis parallel to the first axis because the holder is structurally coupled to the arm so as to pivot on that axis. Applicant has discovered that manipulating a shower head with numerous degrees of freedom is too complicated, is unnecessary, and fails to exploit the benefits that can be realized from the specific structure claimed.

In Larsson for example (US 4,174,822, cited against claims 8-10), the shower head 12 can be pivoted about a vertical axis, namely the longitudinal axis of fixed wall rod 3. The shower head also can be pivoted about a horizontal axis, namely on the axis of bearing 19 between clamp legs 15. The shower head also can be rotated on the axis of its own grip 12. Even if one freely terms the wall rod a mounting fixture and the clamp legs as arms, for which there is no good support on the record, the mechanical pivot couplings and orientations that are stated in claim 1 are not found in the prior art. The invention claimed as a whole is patentable over these references.

Regarding Gransow (US 6,442,775), there are two shower heads placed on an arm such that the pivot axis of the arm and the two shower heads are parallel. However the shower heads are not detachable. There is no suggestion in the reference, and no basis of record apart from improper hindsight, to suggest that it would be obvious to replace Gransow's showers with a hand shower holder. Moreover, claim 1 has been amended to state positively that the shower head is detachable from the holder for the shower head and the holder is the part that is pivotable on the arm. Thus applicant positively recites a detachable shower head and a holder, which are not met in the prior art.

Gransow has another disadvantage compared to invention defined in claim 1. If one compares Figs. 17 and 18, wherein the device is shown in use in a narrow shower stall, it can be seen that Gransow's two shower heads will interfere with one another if one attempts to direct the spray along the axis of the shower. Gransow can spray from above or the side, but has a range of mid angles at which the pivoting arm arrangement is not useful. Gransow does not provide or suggest a versatile arrangement in which a detachable hand shower can be placed and aimed conveniently and efficiently in the manner claimed.

The claims have also been amended to particularly and distinctly define the invention, to obviate all objections on formal grounds, and clearly to distinguish over the prior art of record. The claims are definite and find support in an enabling disclosure. The differences between the invention and the prior art are such that the subject matter

claimed, as a whole, is not shown to have been known or obvious. Reconsideration and allowance of pending claims 1, 3, 5 and 7-32 are requested.

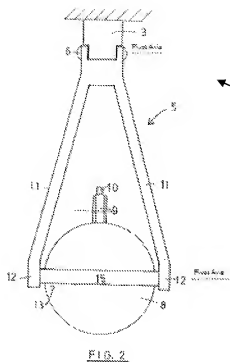
Respectfully submitted,

Date: March 29, 2007

/Stephan Gribok/  
Stephan P. Gribok, Reg. No. 29,643  
Duane Morris LLP  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103-4196  
tel. 215-979-1283  
fax. 215-979-1020  
SPGRIBOK@DUANEMORRIS.COM

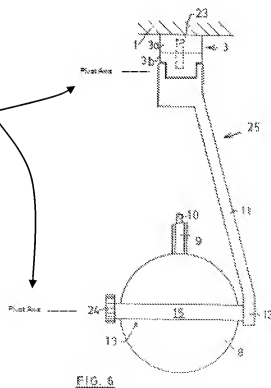
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PCT/EP2003/014089

# Engel PATENT COOPERATION TREATY

15. März 2004

Patent PCTfile

From the INTERNATIONAL BUREAU

To

RUFF, WILHELM, BEIER, DAUSTER &  
PARTNER  
Kronenstrasse 30  
70174 Stuttgart  
Germany

## NOTIFICATION CONCERNING SUBMISSION OR TRANSMITTAL OF PRIORITY DOCUMENT

(PCT Administrative Instructions, Section 411)

Date of mailing (day/month/year)	01 March 2004 (01.03.2004)
Applicant's or agent's file reference	P 42231 WO
Applicant's or agent's file reference	<b>IMPORTANT NOTIFICATION</b>
International application No.	PCT/EP2003/014089
International publication date (day/month/year)	12 December 2003 (12.12.2003)
Priority date (day/month/year)	13 December 2002 (13.12.2002)
Applicant	HANSBROHE AG et al

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Priority date	Priority application No.	Country or national office of the applicant	Date of receipt of priority document
13 Dec 2002 (13.12.2002)	102 60 272.3	DE	08 Feb 2004 (08.02.2004)
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The International Bureau of WIPO 34, chemin des Colombettes CH-111 Geneva 20, Switzerland	Authorized officer Véronique Bellour
Permalink No. 161-321 376 70860	Telephone No. 041-253 596 8003

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